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Senate Bill _____
By _____

House No. HB0695
By Bragg, Sr.

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 4, Parts 1 and 2 and Title 65, Chapter 5, Part 2, relative to the regulation of telecommunications service providers by the public service commission.

WHEREAS, it is in the public interest and the interest of Tennessee consumers to permit competition in the telecommunications services market; and

WHEREAS, competition among providers should be made fair by requiring that all regulation be applied impartially and without discrimination to each; and

WHEREAS, just and reasonable rates can be assured without use of cumbersome rate base-rate of return methods; and

WHEREAS, universally affordable basic telephone service should be preserved; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-4-101(a), is amended by adding the following new language as subsection (c):

(c) "Telecommunications service provider" is a public utility that offers or provides any two-way communications service, telephone service, telegraph service, paging service, or communications service similar to such services.

SECTION 2. Tennessee Code Annotated, Section 65-4-201, is amended by designating the existing language as subsection (a) and by adding a new subsection (b) as follows:

(b) In awarding certificates to telecommunications service providers, the commission shall impose impartially and without discrimination the same requirements on each telecommunications service provider, and the commission shall not impose any requirement, grant any privilege, or establish any condition for one provider that is not also impartially imposed, granted or established for all other providers.

SECTION 3. Tennessee Code Annotated, Section 65-4-203, is amended by adding the following new subsection (c):

(c) The provisions of this section shall not apply to telecommunications service providers.

SECTION 4. Tennessee Code Annotated, Section 65-4-207, is amended by designating the existing language as subsection (a) and by adding the following new subsection (b):

(b) The provisions of this section shall not apply to telecommunications service providers.

SECTION 5. Tennessee Code Annotated, Section 65-5-202, is amended by designating the existing language as subsection (a) and by adding the following new subsection (b):

(b) In exercising its powers under subsection (a), the commission shall not impose on a telecommunications service provider any requirement that is not also imposed impartially and without discrimination on every other telecommunications service provider.

SECTION 6. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as Section 65-5-207:

(a) Just and reasonable rates for telecommunications services may be set without use of traditional rate base-rate of return principles.

(b) The commission shall prescribe for telecommunications service providers a formula for setting just and reasonable rates that is based on a general measurement of inflation for the United State economy and that establishes the maximum rates a telecommunications service provider may charge for its services. For purposes of establishing the formula, all existing rates, terms and conditions for the services provided on February 1, 1995, by telecommunications service providers are deemed just and reasonable, and those rates shall be the initial rates on which the formula is based. The formula shall be adjusted annually to reflect the rate of inflation for the United States. A telecommunications service provider may adjust its prices only so long as its aggregate prices do not exceed the maximum established by the formula. The formula shall be applied impartially and without discrimination to each telecommunications service provider, unless a telecommunications service provider elects to have its rates set using traditional rate base-rate of return principles.

(c) Nothing in this part shall be construed to prevent a public utility from electing to have its rates set using traditional rate base-rate of return principles.

SECTION 7. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as Section 65-5-208:

(a) The commission, after notice and opportunity for hearing, may find that the public interest is served by exempting a telecommunications service or group of services from all or a portion of the requirements of this part. Upon making such a finding, the commission may exempt telecommunications service providers from such requirements as appropriate.

(b) Any order issued pursuant to subsection (a) shall apply impartially and without discrimination to each telecommunications service provider who provides the subject service or a functionally equivalent service.

SECTION 8. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as Section 65-5-209:

Except as provided in Section 65-5-208 and as may be necessary to fund universally affordable basic telephone service, the commission, in exercising its powers and duties under this chapter and title, shall not impose any requirement, grant any privilege, or establish any condition for one telecommunications service provider that is not also imposed, granted, or established impartially and without discrimination for every other telecommunications service provider.

SECTION 9. Tennessee Code Annotated, Title 65, Chapter 5, Part 2, is amended by adding the following new language as Section 65-5-210:

In addition to any other jurisdiction conferred in this title, the commission shall have jurisdiction to investigate and hear all disputes arising under Sections 65-4-201(b), 65-4-203(b), 65-4-207(b), 65-5-207, 65-5-208, and 65-5-209.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.